

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK LUSTER,

Plaintiff,

v.

Case No. 06-12273

Honorable Patrick J. Duggan

MACOMB COUNTY SHERIFFS JAIL,
MACOMB COUNTY PROSECUTORS
OFFICE, MACOMB COUNTY JAIL
NURSING, ARRESTING OFFICER
NAGEL, and JUDGE LUCIDO,

Respondent.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on October 30, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff Derrick Luster initiated this lawsuit on May 18, 2006, alleging that his constitutional rights were violated when he was arrested on April 12, 2006. All of the Defendants, except Defendant Nagel who this Court now has dismissed due to lack of service by Plaintiff, have filed an answer to Plaintiff's complaint. On July 24, 2006, Plaintiff filed a motion for summary judgment, which this Court referred to Magistrate Judge Steven D. Pepe.

On September 26, 2006, Magistrate Judge Pepe filed his Report and Recommendation (R&R) recommending that this Court deny Plaintiff's motion for summary judgment. Magistrate Judge Pepe concludes that, despite Defendants' failure to respond to the motion, Plaintiff fails to demonstrate an absence of a genuine issue of material fact and that he is entitled to judgment as a matter of law. At the conclusion of the R&R, Magistrate Judge Pepe advises the parties that they may object and seek review of the R&R within ten days of service upon them. (R&R at 5.) He further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Pepe.

Accordingly,

IT IS ORDERED, that Plaintiff's motion for summary judgment is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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